

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07 December 2009 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Regarding claims 1-2, 4-8, 11, 14 and 18, the language between the preamble and portions of the body of the claim are inconsistent. For example, the preamble of the claims 1 14 and 18 sets for the subcombination "joining member"; however, body of the claims recites the extension member (of the joining member) having a length greater than a length between said first and second opposed surfaces of said panels, which sets forth a positive relationship between the joining member and panels and thus appears to claim a combination. Clarification was required, and in interview on 02 March 2010 the applicant explained to treat the claims as a subcombination.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3635

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 4-8, 11, 14 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Tudor-Pole (US Patent 3,378,973).

a. Regarding claim 1, Tudor-Pole discloses an elongate joining member configured for bridging a gap (Fig. 3,4) formed between a first and at least a second panel, each panel having a first surface and an opposed second surface, the joining member comprising a flange member (1), an extension member (11) extending from said flange member, said extension member inherently capable of having a length greater than a length between said first and second opposed surfaces of said panels, and at least one resilient retaining member (14) connected to said extension member, and having a first biased configuration relation to said extension member, said at least one resilient retaining member being moveable between said first biased configuration and a second different configuration (column 2, lines 16-30), said at least one resilient retaining member is insertable into said gap between the first and at least second panels, and further wherein when the at least one resilient retaining member is positioned beyond said gap, said at least one resilient retaining member resiliently returns at least towards said first biased configuration relative to the extension member and wherein the length of the extension member can position the at least one resilient retaining member such as to engage said second surface of at least one of said panels, said flange member being moveable, or capable of being moved, from a

Art Unit: 3635

substantially domed configuration relative to the first surface of the first and at least second panels to a substantially flat configuration (column 1, lines 36-41) relative to said first surfaces to substantially bridge the gap between said first and at least second panels, wherein said flange members is retained in said substantially flat configuration by the engagement of said at least resilient retaining member with the second surface of said at least one of said panels.

b. Regarding claim 2, the flange member comprises a main body defined on one side by a first surface for engaging said at least a portion of the first surface of both the first and second panels and a second opposing side that present the outward appearance of the joining member (Fig. 1,3).

c. Regarding claim 4, in the substantially flat configuration the first surface of the flange member is substantially flush with the two panels (Fig. 3).

d. Regarding claim 5, the extension member is relatively straight and extends from a proximal end adjacent the flange member to a distal end (Fig. 1).

e. Regarding claim 6, the at least one resilient retaining member comprises opposing first and second members each connected to and disposed at an angle relative to the extension member (Fig. 1).

f. Regarding claim 7, in said first biased configuration, the first and second leg members (14) extend from a first end that is connected to the extension member to a second end that is spaced from the extension member (Fig. 1).

Art Unit: 3635

- g. Regarding claim 8, the second end of the first leg is engageable with the second surface of the first panel and the second end of the second leg member is engageable with the second surface of the second panel. (Fig. 1).
- h. Regarding claim 11, the retaining member includes a single leg member (14) connected to the extension member.
- i. Regarding claim 14, Tudor-Pole discloses an elongate joining member (Fig. 1) for bridging a gap between a first and at least a second panels (Fig. 3), each panel having a first surface and an opposed second surface, the joining member comprising a flange member (1), and at least two resilient extension members (11) (Fig. 1) which extend from a first end connected to said flange to a second free end (Fig. 1), each resilient extension member capable of having a length greater than the length between the first and second surfaces of said panels, and comprising at least one resilient retaining member (14) positioned at or adjacent to said second end (Fig. 1) of at least one of the extension members, and wherein said at least one resilient retaining member being movable from a first biased configuration to a second different configuration (column 2, lines 14-30) for insertion into said gap and when positioned beyond said gap, the extension members adopt the first biased configuration, the length of each extension member being such that when positioned beyond said gap, at least one of the extension members can engage at least a portion of the second surface of at least one of the panels, said flange member being moveable, or capable of being moved, from a substantially domed configuration relative to the

Art Unit: 3635

first surfaces of said panels to a substantially flat configuration (column 1, lines 36-41) relative to said first surfaces of said panels to substantially bridge the gap therebetween, wherein said flange member is retained in said substantially flat configuration by the engagement of said at least one resilient retaining member with the second surface of said at least one of said panels.

j. Regarding claim 18, Tudor-Pole discloses a joining member configured to bridge a gap between a first panel and a second panel, each panel having a first surface and an opposing second surface, the joining member comprising a flange (!) including a first outer surface and an opposing second surface, the flange can have a first configuration in which the first outer surface has a substantially domed configuration and a second configuration in which the first outer surface is substantially flat configuration (column 1, lines 36-41) relative to the first surfaces of said panels, an extension member (11) connected to the second surface of the flange at a proximal end and extending to a distal end (Fig. 1), said extension member inherently capable of having a length greater than the length between the first and second surfaces of said panels, and a retaining member (14) connected to and extending from the distal end of the extension member, the retaining member including a first leg member having a first end and an opposing second end, wherein the first end of the first leg member is connected to the distal end of the extension member (Fig. 1), the retaining member having an expanded configuration and a collapsed inserted configuration for insertion of the retaining member through said gap, wherein the

retaining member is positioned beyond said gap it is in said expanded configuration (column 2, lines 14-30), wherein the length of the extension member is such that the retaining member can be caused to engage at least a portion of the second surface of at least one of the panels, said engagement causing said flange to be retained in said substantially flat configuration.

Claim Rejections - 35 USC § 103

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tudo-Pole (US Patent 3,378,973) in view of Yamamoto (JP 06185129). Regarding claim 9, Tudor-Pole discloses the invention as claimed except for the second end of the first and second leg members including a grooved or serrated face to engage the second surface of the panels. However, it is well known in the art that legs can include a grooved or serrated face. For example, Yamaoto teaches an elongate joining member (11) for bridging a gap between a first and at least a second panel (1) (Fig. 2,6), each panel having a first surface and an opposed second surface, the joining member (11) comprising a flange member (13), an extension member (16) extending from said flange and at least one resilient retaining member (21) connected to said extension member (Fig. 3,6,9), and having a first biased configuration relative to said extension member, said at least one resilient retain member being movable between said first biased configuration and a second different configuration (abstract), said at least one resilient retaining member is insertable into said gap between the first and at least second panels (abstract; Fig. 3), and further wherein when the at least one resilient retaining member is moved beyond said gap it resiliently returns at least

Art Unit: 3635

towards said first biased configuration relative to the extension member such that it engages at least a portion of the second surface of each panel (Fig. 6) and wherein the flange member is engageable with at least a portion of the first surface of each panel such that said flange member substantially bridges the gap between the first and at least second panels (abstract), wherein the second end of the first and second leg members include a grooved face (Fig. 6) to engage the second surface of the panels. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Tudor-Pole to modify the second end of the first and second leg members to include a grooved or serrated face to engage the second surface of the panels, such as taught by Yamaoto, in order to make the legs retain better.

Response to Arguments

7. Applicant's arguments filed 07 March 2009 have been fully considered but they are not persuasive. Because the applicant is claiming a subcombination, trying to define the length of the extension member in relation to a panel is meaningless, as any size panel could be used. Furthermore, because the claims are not directed to the entire system or combination, panels do not even need to be shown for Tudor-Pole to be a 102 rejection; the subcombination shown in Tudor-Pole just needs to be able to meet the functionality requirement of being used with two panels, the two panels having a length less than the length of the extension member. While it is agreed that Tudor-Pole does not show the actual configuration shown in applicant's figures, Tudor-Pole is still capable of being used in such a configuration if being used with thinner panels. While applicant further argues that even if the extension member of Tudor-Pole were

Art Unit: 3635

extended beyond the gap between the panels, the retaining member would have no bearing on the shape of the flange element, the ends of Tudor-Pole's extension member (13) actually interact with the flange member (at 2). The flange member is retained in a substantially flat configuration, and the force exerted by the members 2 can be apart of the reason that the flange stays flat. There is nothing in the specification or claims that say that the sole reason the flange stays flat is due to retaining members, or that without the force from the retaining members the flange would return to a domed configuration.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH A. PLUMMER whose telephone number is (571)272-2246. The examiner can normally be reached on Monday through Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3635

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeanette E Chapman/
Primary Examiner, Art Unit 3633

/E. A. P./
Examiner, Art Unit 3635